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**NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

MARK RADOWITZ, D.C.  
License No. 38MC00368500

TO PRACTICE CHIROPRACTIC  
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER  
DENYING REINSTATEMENT

This matter was opened to the New Jersey State Board of Chiropractic Examiners upon receipt of the application of Mark Radowitz, D.C. (hereinafter "Respondent") for the reinstatement of his license to practice chiropractic, which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Respondent, Mark Radowitz, D.C., is a chiropractic physician in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On April 21, 2006, Respondent entered into a Consent Order in a criminal action in the Superior Court of New Jersey, Law Division, Monmouth County, Docket No. 05-07-001-12-S, which required him to surrender his license to practice chiropractic in the State of New Jersey, to be deemed a revocation, in accordance with his plea agreement. As a

result of his plea, Respondent was convicted of second degree health care claims fraud, in violation of N.J.S.A. 2C:21-4.2. The aforesaid Consent Order provides that nothing contained therein shall preclude the Board from taking any additional action against Respondent in any civil or administrative proceeding based upon his conviction. As Respondent's license to practice chiropractic was revoked by the Court by consent, the Board took no additional action at that time.

3. On January 25, 2011, the criminal history background check associated with Respondent's application for reinstatement and mandated by N.J.S.A. 45:1-29, disclosed the following information in addition to his conviction for health care claims fraud:

- A. On March 8, 2005, Respondent was sentenced to three years Probation after his plea of guilty to, and conviction of, attempted theft by deception, in violation of N.J.S.A. 2C:20-4.
- B. On April 27, 2004, in the municipal court of Midland Park Boro, Respondent pleaded guilty to, and was convicted of, volunteering false information to a law enforcement officer with the purpose of hindering his own apprehension, by providing a name as identification other than his own, in violation of N.J.S.A. 2C:29-3(b)(4).
- C. On May 28, 2003, Respondent was arrested by Perth Amboy Police, Middlesex County, and charged with committing the crimes of Extortion and False Swearing. These charges were subsequently amended, and Respondent entered a plea of guilty to, and was convicted of, attempted theft by deception.

- D. On or about November 4, 2002, in the Superior Court of Middlesex County, New Jersey, Respondent pleaded guilty to, and was convicted of, Conspiracy to Obtain CDS by Fraud.
- E. On or about June 10, 2002, in the Superior Court of Monmouth County, New Jersey, Respondent pleaded guilty to, and was convicted of Forgery, Obtaining CDS by Fraud, and Attempting to Obtain CDS by Fraud.
- F. Between March 4, 1994 and March 14, 2002, Respondent was arrested by nine different law enforcement agencies a total of seventeen (17) times.

4. Upon review, the Board finds that on or about October 29, 2001, and on or about August 29, 2003, Respondent certified the truth of his responses to question #5 on his applications for the biennial renewal of his chiropractic license. Having been asked if he had been arrested, charged or convicted of any crime or offense since his last renewal that he had not already reported to the Board, Respondent answered "NO" on both occasions. Respondent's responses to questions #5 were false.

5. In support of his original application for reinstatement, Respondent provided a terse affidavit that refers to his completion of an intensive supervision program and his payment of restitution ordered by the court.

#### CONCLUSIONS OF LAW

1. The above findings of fact provide grounds for the provisional denial of reinstatement of Respondent's license to practice chiropractic in New Jersey at this time pursuant to N.J.S.A 45:1-21(b), (f) and (k), in that Respondent has engaged in a pattern of dishonesty extending over a substantial period of years, as evidenced by his history of

criminal convictions involving moral turpitude and relating adversely to the practice of chiropractic, including insurance fraud, and has failed in his application for reinstatement to adequately demonstrate his rehabilitation.

2. The above findings of fact provide grounds for the denial of reinstatement of Respondent's license to practice chiropractic in New Jersey at this time pursuant to N.J.S.A 45:1-21(a), in that Respondent obtained past renewals of his biennial registration through misrepresentation and deception.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline provisionally denying Respondent's application for the reinstatement of his license to practice chiropractic in the State of New Jersey was issued on May 4, 2011, and a copy was forwarded to Respondent by means of both regular and certified mail to his address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

By letter dated September 28, 2011, Respondent, through counsel, Abbey True Harris, Esq., advised the Board that he would not challenge the Provisional Order, but would instead undertake actions to: "strengthen a future application to reinstate his chiropractic license." In addition, Respondent asked the Board to shorten the period during which he would not be permitted to reapply from two (2) years to one (1) year.

By letter with enclosures dated October 25, 2011, Respondent provided the following additional documents\* in support of his request to shorten the period during which he would not be permitted to reapply:

- A. Undated letter from David Bresch, M.D. to Respondent's counsel containing diagnoses, recommendations for ongoing care (of Respondent's various mental disorders) and an endorsement of his return to the practice of chiropractic with continued medical therapy. (2 pages).
- B. Letter dated June 8, 2011 from Peter S. Mueller, M.D. to Jonathan Eisenmenger, Executive Director, Board of Chiropractic Examiners describing the sequelae of a head injury suffered by Respondent at the age of five years and supporting his return to chiropractic practice. (2 pages).
- C. Redacted treatment notes and radiological report (6 pages).
- D. Copy of an article entitled *Quantitative Analysis of Interictal Behavior in Temporal Lobe Epilepsy*, Bear & Fedio, *Arch Neurol* (Aug. 1997) (14 pages).
- E. Copy of an article entitled *Epilepsy*, Browne & Holmes, *The New England Journal of Medicine* (April 12, 2001) (7 pages).
- F. Copy of an article entitled *Review of the Literature on Major Mental Disorders in Adult Patients With Mitochondrial Diseases*, Fattal, Budur, Vaughan, & Franco, *Psychosomatics* (Jan-Feb 2006) (7 pages).
- G. Copy of an article entitled *The Seasonal Disorder*, Peter S. Mueller, M.D., (8 pages).
- H. *Curriculum Vitae* of Peter S. Mueller, M.D. (8 pages).

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\*Inasmuch as these documents implicate significant privacy interests of the Respondent, they shall be maintained as confidential and not made a part of this public order.

## DISCUSSION

The Board is cognizant of the requirement of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-2, that it explain how Respondent's convictions relate adversely to the practice of chiropractic. The statutory factors will be addressed herein in the order in which they are listed in the Act.

### *The Nature and Duties of the Profession*

A licensed chiropractor, as a health care professional, must demonstrate a high level of trustworthiness. The Board is charged with assuring, through licensure, that the public may place great trust in a chiropractic physician. Chiropractic patients must be able to trust the treatment being rendered by their doctor; other health care professionals must be able to place trust in the accuracy of the records of treatment created and maintained by the treating chiropractor; and patients or third party payers must be able to rely upon the veracity of the bills for the care rendered. Respondent's criminal record demonstrates a history of betrayal of the trust placed in him as a professional. The Board concludes that, if reinstated at this time, the likelihood of Respondent repeating his offenses is unacceptably high.

### *Nature and Seriousness of the Crimes*

Respondent has, over a period in excess of five years between 2001 and 2006, demonstrated his proclivity for engaging in serious acts of dishonesty and fraud, including health care claims fraud, prescription fraud, theft, forgery and purposeful deception, even of the Board. This history has not been nullified by the passage time and Respondent has not yet provided convincing evidence of his rehabilitation. Consequently, his crimes are of a nature that relates directly and adversely to the duties of the profession described above.

### *Circumstances under which the Crimes Occurred*

Respondent offers that he was going through “an awful / ugly divorce” and that subsequently diagnosed mental disorders were circumstances surrounding his multiple arrests and convictions. However, marital discord is not a reason to commit theft by deception or health care claims fraud; and his mental disorders were not significant enough to excuse Respondent from liability for the criminal acts of which he stands convicted. At this juncture the Board has insufficient assurance that if placed under stress from any source, Respondent will be capable of coping without resort to further unlawful conduct.

### *Date of the Crimes / Age of the Offender*

Respondent was an adult in his forties at the time of his offenses – already a licensed professional for more than a decade. His crimes and offenses cannot be attributed to youthful exuberance or simple bad judgment. Because of the lengthy span of time over which they occurred, the dates of his crimes and offenses offer to Respondent no mitigation of culpability. The most recent offense is not so remote in time that its significance should be diminished.

### *Whether the Crimes were Isolated or Repeated Incidents*

Respondent's crimes and offenses were repeated; and were not the product of a solitary, isolated instance of poor judgment. Moreover, they share a common thread of dishonesty.

### *Social Conditions which May Have Contributed to the Crimes*

Respondent has offered evidence that he suffers from ongoing medical conditions that may have contributed to his criminal behavior; however, he does not challenge the denial of his application pending further treatment for these conditions.

### *Evidence of Rehabilitaion*

Respondent has received psychiatric and medical treatment; however, he must provide additional evidence of rehabilitation if he is to dissipate the concerns of the Board engendered by his past behavior. The Board finds Respondent's submissions remain inadequate to outweigh both Respondent's most recent conviction for a crime that relates so adversely to the practice of chiropractic, and his demonstrated history of offenses involving moral turpitude. The Board concludes that Respondent's license should remain revoked and not be reinstated at this time.

Although Respondent advised through counsel that he does not challenge the Board's conclusion, he requests a shortening of the period of ineligibility to reapply to one year. Notwithstanding the evidence of Respondent's mental disorders and the opinions of his physicians, the Board is not persuaded that shortening the period of ineligibility would be consistent with the health, safety and welfare of the public. The Board believes that one year is insufficient time to allow Respondent to meet all required conditions as well as undertake actions to adequately demonstrate his rehabilitation.

Accordingly, having considered the entire record, and in light of Respondent's decision to accept the Board's Provisional Order and to undertake further actions to strengthen a future application; and the Board having determined that further proceedings are therefore not necessary at this time; the Board has determined that the Provisional Order should be made final.



THEREFORE, IT IS on this 16<sup>th</sup> day of November, 2011,

ORDERED that:

1. Respondent's application for reinstatement of his license to practice chiropractic in the State of New Jersey be and hereby is denied.
2. No re-application for reinstatement of Respondent's license to practice chiropractic in the State of New Jersey will be entertained sooner than two years from the finalization of this Order.
3. Upon re-application, Respondent shall demonstrate that he has successfully completed the Special Purposes Examination for Chiropractic administered by the National Board of Chiropractic Examiners, and that he has successfully completed and unconditionally passed the ProBE (Professional Problem Based Ethics) course offered by The Ethics Group, 89 Summit Avenue, Suite 185, Summit, New Jersey 07901, or the PRIME (Professional Renewal in Medicine through Ethics) course offered by the Center for Continuing Education in the Health Professions at UMDNJ-Robert Wood Johnson Medical School, 97 Paterson Street, Room 124, New Brunswick, New Jersey 08903.
4. The Directives of the Board applicable to any Chiropractic Board licensee who is suspended, revoked or whose surrender of license has been accepted are incorporated by reference as though fully set forth herein, whether or not they are attached hereto.

NEW JERSEY STATE BOARD OF  
CHIROPRACTIC EXAMINERS

By: 

Albert Stabile, Jr., D.C.  
Board President